

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

UNITED STATES OF AMERICA,

V.

ANTONIO DESHAWN DANIELS,
Defendant.

No.: 1:20-CR-00306-TWT-CMS

PRELIMINARY MOTION TO SUPPRESS

COMES NOW the Defendant, Antonio Deshawn Daniels (hereinafter “Daniels”), by and through undersigned counsel, pursuant to Fed.R.Crim.P. 12(b)(3)(C), moves this Court for an evidentiary hearing, and an order suppressing all evidence of any kind and the fruits thereof – including alleged physical evidence, statements, identification, and testimony—illegally seized by law enforcement agents in violation of Defendant’s Fourth, Fifth, or Fourteenth Amendment rights, or Fed.R.Crim.P. 41.

As grounds thereof, Defendant alleges that the search of Daniels' person, and property, and the seizure of items resulting from these searches, were improper, illegal, and without probable cause, in violation of Defendant's rights under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution:

1. On July 20, 2020, the Honorable Alan Baverman signed multiple search warrants for 5 Target locations allegedly associated with Defendant Antonio Daniels. *See* 1:20-MC-1246 through 1250.

2. Those 5 Target locations were the following:

- (a) ***Target Location # 1:*** 555 Whitehall Street SW, Unit #,
Atlanta, Georgia
Search Warrant 1:20-MC-1246
- (b) ***Target Location #2:*** 3039 Clarendale Dr. NW
Atlanta, Georgia
Search Warrant 1:20-MC-1247
- (c) ***Target Location #3:*** Creekside Corner Apartments
5301 W. Fairington Pkwy., Unit 3106
Lithonia, Georgia
Search Warrant 1:20-MC-1248
- (d) ***Target Location #4:*** Alter at Brookhaven
3833 Peachtree Rd. NE, Unit 712
Atlanta, Georgia
Search Warrant 1:20-MC-1249
- (e) ***Target Location #5:*** Alter at Brookhaven
3833 Peachtree Rd. NE, Unit 715
Atlanta, Georgia
Search Warrant 1:20-MC-1250

3. The Affidavit in support of each of these Target locations was contained in a single, multi-part document prepared by TFO David Noe of the Drug Enforcement Administration. *See* Affidavit in support of SW-20-MC-1246.

4. Each warrant was apparently issued telephonically pursuant to FRCP 4.1. *See e.g.*, 1:20-MC-1246. Insofar as any record of same may be available, *see* FRCP 4:1(b)(2)(B), Movant requests same.

5. Movant has “standing” to assert his constitutional and statutory rights as to each of the Target locations.¹

6. As to each of the Target locations the subject warrants themselves-given their precise similarity – are (collectively):

- (i) overbroad;
- (ii) lack sufficient particularity allowing for the general rummaging through the premises; and
- (iii) lack temporal restrictions.

7. The warrants are not supported by probable cause, *inter alia*, in the following particulars:²

Preliminary Information

The Affidavit kicks off with a recitation of a search conducted some seven (7) months prior to the instant warrant. A [REDACTED] was searched in Marietta in

¹ As to each of the Target locations, Movant would rely on, *inter alia*, allegations contained in the Affidavit itself. *See e.g.*, *United States v. Meran*, 2017 U.S. Dist. Lexis 174849; *United States v. Penn*, 2020 U.S. Dist. Lexis 189057 (“Put simply, a defendant can meet his or her burden by relying only on evidence given by the government.”) The Noe Affidavit is replete with allegations that Movant “routinely spent the night” at Location #1, having unrestricted ingress to same; Location #2 as a residence “used” by Movant, at which he (Movant) “maintains” a locked room; Movant allegedly rents Location #3; Locations #4 and #5 are apartments that Movant clearly has standing in.

² The search warrants were issued on July 20, 2020, and executed on July 27, 2020. As an introductory note, the first four (4) pages of the Affidavit comprises the “Agent’s Qualifications”, the next page and a half is boilerplate allegations regarding activity of “drug traffickers” in general; the next section generalizes about “electronic devices”; and, finally, before any probable cause information, the Affiant suggests his “belief”, based on “preliminary and tentative” information from others along with his “interpretation”, that probable cause exists. That, of course, is up to the Court.

October 2019. [REDACTED] had a ledger and plenty of money and drugs.³ The ledger was “analyzed” by two CI’s – both of whom expect “consideration” for their cooperation. An alleged summary of the ledger – giving credit to the CI information as well as Mr. [REDACTED] – show the last activity relating to Movant was in November of 2018.

After this discovery, a wiretap assault began⁴ on March 31, 2020.

Target Location #1: As to the wiretap summaries contained in the Noe Affidavit, the last phone conversation alleged in the Affidavit relating to Location #1 was May 22, 2020, almost *two months* prior to seeking the warrant for this location.

Target Location #2: The wiretap conversation regarding Location #2 reveals that other than “meeting” at that location (¶46, p. 29) there was a purported discussion of “Arizona” (marijuana) which was in May 2020. In fact, according to the summaries, in June and early July, Patterson was imploring Movant to “make her first” *if* Movant got his “package”. That is, Patterson was *out of product*. What makes Noe believe that anything would be found at Location #2?

Target Location #3: The last interception relating to Location #3 comes on May 25, 2020. Indeed, surveillance that day allegedly showed Movant carrying a “shoe bag” into the apartment location. Really? That’s it? If that’s all it takes to get a search warrant – almost *two months* prior – the Fourth Amendment is a dead letter!

Target Location #4 and #5: Location #4 is Movant’s “primary location” – it is rented in his name, and the power bill is in his

³ Apparently [REDACTED] had 13 kilos of cocaine and \$690,000 in cash.

⁴ There was monitoring on 6 phones used by Movant – a subject which will be dealt with by a separate motion.

name. And, holy cow, agents intercepted phone conversations about “discussing the parking spaces” assigned to Location #5.⁵

Likewise, the Noe Affidavit relates an April 17, 2020, stop of Reeves “just South of Macon”. During that stop, agents allegedly seized procaine – not Schedule I or II drugs. Likewise, a search at 650 Fairburn Dr. was derailed. (¶63, pp. 39-40). What you may ask, has this to do with probable cause for Locations #4 and #5? Easy answer – nothing.

Finally, the fact that Movant may have met *unnamed* coconspirators “by the pool” at the alter is unconvincing. Like any alleged communications in April 2020 (¶’s 70-74 pp. 44-46). No information that any of the sought-after items would be found in either location.

In short, the subject Affidavit falls far short of establishing probable cause that the sought-after items would be found at the Target locations. The information is based on

(1)unreliable sources [*Lee v. Illinois*, 476 U.S. 530 (1986); *Williamson v. United States*, 512 U.S. 594 (1994)]

(2)speculation;

(3)stale information;

(4)lack of nexus to the place searched;

(5)lack of specific information as to the items to be seized.

WHEREFORE, Movant respectfully requests that this Court grant an evidentiary hearing and suppress the improperly obtained evidence against him in

⁵ Location #5 is rented in the name of Lorene Reeves AKA Bada Bing. Movant has paid the rent for Location #5. (¶61, p. 38).

this case and reserves his right to amend this Preliminary Motion to Suppress to further particularize same subsequent to receipt of any additional discovery.

This 10th day of September 2021.

Respectfully submitted,

/s/ Bruce S. Harvey
LAW OFFICE OF BRUCE S. HARVEY
ATTORNEY FOR DEFENDANT
Bruce S. Harvey, #335175
bruce@bharveylawfirm.com
146 Nassau Street, NW
Atlanta, Georgia 30303
(404) 659-4628

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing pleading upon opposing counsel by using the Court's CM/ECF system which will deliver a copy to all registered to receive service via CM/ECF, addressed as follows:

Nicholas Hartigan, AUSA
Office of the United States Attorney
600 United States Courthouse
75 Ted Turner Dr., S.W.
Atlanta, GA 30303

This 10th day of September 2021.

/s/ Bruce S. Harvey
LAW OFFICE OF BRUCE S. HARVEY
ATTORNEY FOR DEFENDANT
Bruce S. Harvey, #335175
146 Nassau Street
Atlanta, Georgia 30303
(404) 659-4628